

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

WILLIE MCNAIR,)	
)	
Plaintiff/Counter-Defendant,)	
)	
v.)	Case No. 2:06-cv-695-WKW
)	
RICHARD ALLEN, et al.,)	
)	
Defendants/Counter-Plaintiffs.)	
<hr style="width: 40%; margin-left: 0;"/>		
JAMES CALLAHAN,)	
)	
Plaintiff/Counter-Defendant,)	
)	
v.)	Case No. 2:06-cv-919-WKW
)	
RICHARD ALLEN, et al.,)	
)	
Defendants/Counter-Plaintiffs.)	

**PLAINTIFFS' RESPONSE TO ORDER TO SHOW CAUSE
REGARDING TRIAL CONTINUANCE**

Plaintiffs Willie McNair and James Callahan hereby respectfully submit the following Response to the Court's September 27, 2007 Order to Show Cause.

Plaintiffs are ready, willing and able to go to trial as scheduled next week. Plaintiffs recognize, however, that Defendants have announced their intention to change the Execution Procedures in Alabama. Therefore, it is not possible for there to be a trial concerning the constitutionality of the method of execution that the State actually will employ or intend to employ in the execution of Plaintiffs. For these reasons, Plaintiffs do not object to the continuation. The continuation and any resulting delay is not any result of Plaintiffs' doing and

should not in any future proceeding be treated as a basis for preventing them from receiving a full hearing on their § 1983 claim brought in this action.

Date: September 28, 2007

/s/ Heather K. McDevitt
VINCENT R. FITZPATRICK, JR.
HEATHER K. MCDEVITT
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- and -

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CERTIFICATE OF SERVICE

I certify that on September 28, 2007, a copy of the foregoing was filed electronically with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: J. Clayton Crenshaw, James W. Davis, Corey Maze and Jasper Roberts.

/s/ Peter B. Patterson, Jr.
Peter B. Patterson, Jr.

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